

1 **Highland City Planning Commission**
2 **March 27, 2012**
3

4 The regular meeting of the Highland City Planning Commission was called to order by Planning
5 Commission Chair, Chris Kemp, at 7:00 p.m. on March 27, 2012. An invocation was offered by
6 Commissioner Tim Heyrend. Commissioner Abe Day led those assembled in the Pledge of Allegiance.
7

8 **PRESENT:** Commissioner: Chris Kemp
9 Commissioner: Jay Roundy
10 Commissioner: Abe Day
11 Commissioner: Tim Heyrend
12 Commissioner: Scott Temby
13 Commissioner: Steve Rock
14 Alternate Commissioner: Lance Garrett
15

16 **EXCUSED:** Commissioner: Sherry Carruth
17

18 **STAFF PRESENT:** City Administrator: John Park
19 City Engineer: Matt Shipp
20 Community Development Director: Nathan Crane
21 Secretary: Jill Stewart
22

23 **OTHERS:** Chris Dalley, Larry Mendenhall, Jess Adamson, Thomas Butler, Melissa Wright, Roger
24 Mickelson, Jessie Schoenfeld, Scott Smith, Brian Braithwaite, Deanna Holland, Ed Barfuss, Tim Irwin,
25 Brent Pugh, Lynn Ritchie, Mike DeCarlo, Aaron Orulhan, Brady Mather, Johnny McGill, Scott Johnson,
26 Cameron Platt, Russell Skousen, Tricia Allen, Jennifer Bengtzen, Barbara Barry, Joe Barry, Rod Mann,
27 Rebekah Kaylor, Theron Stoddard, Jason Kinghorn, Karen Kinghorn, Melissa Coon, Darrel Ockler, Roma
28 Jean Ockler, Ed Ludaescher, Dorothy Ludaescher, Katie Clinger, Ann Adamson, Erin Moss, Bethany
29 Erickson, Vern May, Emily Rowberry, Mark Forbes.
30

31 **A. APPEARANCES**
32

33 Commissioner Kemp read an opening statement for the Planning Commission.
34

35 “This Planning Commission is composed of Highland City citizens who have been appointed by
36 the City Council to serve on the Commission as a civic responsibility. In the interest of
37 maintaining a fair and efficient hearing, the Commission adheres to the following steps:
38

39 The Chair calls the agenda item;
40 Staff gives a brief report and recommendation;
41 Applicant then may give a presentation;
42 Opposition and support give testimony, no more than three minutes per speaker;
43 Applicant may give a response, and
44 The Commission has a discussion and makes decision.
45

46 Anyone wishing to speak before the commission must fill out a speaker information form and
47 hand it to Nathan Crane, Community Development Director. We expect all that participate will be
48 civil in their public discourse and that they will be respectful of others whether they agree or
49 disagree with any action taken. The Commission will stand against any incivility when we see it.

1
2 We thank you in advance for your participation.”
3

4 Commissioner Kemp added that over the last couple days he has received threats from Highland residents.
5 He stated that he expects more out of Highland residents. We are above that. Any threats directed at the
6 Planning Commission, City Council, or staff will be dealt with appropriately.
7

8 Commissioner Kemp invited comments from the public regarding items not on the agenda. Hearing no
9 comments Commissioner Kemp continued with the scheduled agenda items.
10

11 **B. PUBLIC HEARING AND LEGISLATIVE ACTION** 12

- 13 1. TA-12-03 A request by the Highland City Council to amend the Highland City Development Code
14 Section 3-4353 General Conditions eliminating the prohibition of business being open on Sundays
15 in the CR Zone and referencing the Municipal Code. *Legislative.*

16 Nathan Crane, Community Development Director, introduced this item and explained that one of the
17 goals today is to provide some background on the process, where we are, and how we got here. Mr. Crane
18 said that one of the important things is to understand our roles in this process. Staff, the Planning
19 Commission, and the City Council are involved in this process. Staff is here to provide a non-biased
20 professional review of a request and prepare appropriate documents as directed. The Planning
21 Commission’s role is advisory to the City Council in legislative matters and they provide a
22 recommendation to the City Council. The Planning Commission does not make decisions. The City
23 Council’s role is to make the laws; the Development Code and the Municipal Code. It is important to note
24 that only the City Council can change a law.

25 Mr. Crane explained how all of this fits together. Federal laws set out authorities with what states can do.
26 States have enabling statutes that identify what cities can do. In our particular instance, we have a
27 Municipal Code that regulates affairs in the city. We have a Development Code that is part of the
28 Municipal Code. If there is a restriction that is more restrictive in the Municipal Code or dealt with
29 differently, the Municipal Code will override.

30 As it relates to this issue, the primary regulations relating to the days of operation are located in the
31 Municipal Code under the business license section. This is applicable to all businesses in Highland. The
32 days of operation requirements have three exceptions, which are: home occupations, gas stations, and
33 private clubs. In the development code, there are nine non-residential zoning districts. These are districts
34 primarily associated with uses not residential in nature; commercial, office, or those types of uses. There is
35 only one district in the development code that addresses days and hours of operation. That is the CR
36 zone. It is important to note that all businesses including the CR zone are still subject to the business
37 license regulations.

38 The existing Municipal Code requirements limit the days and hours of operation from Monday through
39 Saturday from 6:00 am to 12:00 am. The existing CR zoning district, the only one in the development
40 code with restrictions, has a little different language, but pretty much mirrors the Municipal Code. The
41 proposed amendment is to amend the Development Code to reference the requirements in the Municipal
42 Code. The amendment modifies the existing language in the Development Code; this ensures we have
43 consistent requirements throughout all zoning districts. It does not allow businesses in the CR zone to be
44 open on Sunday. The Municipal Code would regulate that.

1 Mr. Crane stated that this issue is complex. On April 17, 2012, the City Council will be holding a meeting
2 to discuss proposed changes to the Municipal Code and the Development Code to remove the restrictions
3 regarding the days of operation. Any action that is taken tonight will be advisory and does not have an
4 effect on the Council's decision or discussion. They do take the Planning Commission's recommendation
5 into consideration, but do not have to follow it. Mr. Crane expressed that staff believes this is a
6 community value issue and cannot be addressed without addressing the Municipal Code. Staff believes
7 that one of the primary roles of the City Council is to determine those community values and then enact
8 laws that reflect those values. Staff is recommending that the Planning Commission forward this item to
9 the City Council without a recommendation. This would allow the Commission members, if they choose,
10 to participate in the public process without a perceived bias in the process.

11
12 Commissioner Kemp reiterated that the Planning Commission is not voting on this item, it is strictly a
13 housekeeping issue. There are essentially two codes that address the days of operation and we are going to
14 combine those so that they are referenced under the Municipal Code. Commissioner Kemp indicated this
15 is a public hearing and there are a lot of people who would like to speak on this matter. The Commission
16 will take a few comments; probably the more appropriate time to voice comments would be at the City
17 Council meeting on the 17th. Commissioner Kemp asked that the comments be kept brief and avoid
18 repetition.

19
20 Commissioner Kemp opened the public hearing at [7:12:02 PM](#).

21
22 Jess Adamson thanked the Commission for their service and expressed that he understands what the
23 Commission is going through and their positions here. He expressed that he takes exception to the
24 comment that this may not be the appropriate forum for comments. The Planning Commission has been
25 directed by the City Council to handle this and there is a public hearing. Mr. Adamson said he believes it
26 is always appropriate for the public to give input into any issue facing the City Council or Planning
27 Commission. He indicated he was on the Planning Commission for six years and was the chairman for
28 two years. He served as mayor of this community for eight years. Mr. Adamson expressed that he has
29 some experience and he understands the budget, the infrastructure, the operations, and Highland City as a
30 whole. Mr. Adamson expressed that he has seen the city grow in the time he served, as well as in the last
31 35 years since he has been here. He said he thinks it is unfortunate that the Commission has received this
32 request from the City Council at this time. Mr. Adamson clarified that this item was published as a public
33 hearing to amend the Highland City Development Code section 3-4353 General Conditions eliminating
34 the prohibition of businesses being open on Sundays in the CR zone; this was how this was announced so
35 it is very appropriate to address those comments through the Planning Commission.

36
37 Mr. Adamson continued that the Planning Commissioners are elected representatives and they should seek
38 to understand the will of the people before recommending any amendment to this Development Code.
39 This should have been accomplished before the request to amend this was sent to the Planning
40 Commission. This is a much more than an economic discussion. It is a discussion of community values
41 and beliefs. Mr. Adamson stated that a community has the right to define the values important to its
42 citizens. After all, isn't that the reason we all moved here based on what we value and cherish. These
43 values have been incorporated into our laws and ordinances since our official beginning in 1977, however,
44 they predate us, they have been here since there has been a population living in Highland.

45
46 Mr. Adamson continued, a community should be allowed to have a day of rest. He stated he was here
47 when this issue came up; when commercial development started in the city. This was much discussed
48 amongst the residents. He said they took the position at that time to give our community a day of rest.
49 Mr. Adamson gave examples of days of rest; students take two days off, people take generally two days off
50 from employment, Highland City takes three days off to rest and recuperate. He said that he thinks

1 everyone has that opportunity to be at rest for a period of time. He thinks that our community is no
2 different from that. Mr. Adamson said that the City Creek Center opened with 80 businesses, some of
3 them world renowned, but they are closed on Sunday. He stated this is not an issue of our roads; that they
4 will fail if we do not have businesses open on Sunday. This issue boils down to the will of the good
5 residents. If the City Council does not know or understand the will of the people they should place the
6 question of Sunday opening on the ballot at the next general election in November and give the people
7 their voice. Mr. Adamson said to proceed any further on this issue without understanding the will of the
8 people is out of order. He expressed that we live in a blessed community because of the people, the types
9 of lives, and the type of community we have. He said he is not willing to give those blessings up and
10 thanked the Commission for their service.

11
12 Commissioner Kemp asked Nathan to clarify the procedure if this goes on the ballot at the general
13 election vote. Mr. Crane explained that there is a process in the state code for the voters to place a
14 referendum on the ballot of any legislative action that the City Council adopts. If the state guidelines are
15 followed, the referendum for the issue would be put on the ballot.

16
17 Rob Mann expressed his concern for this matter. He said he spoke to a number of councilmen. He stated
18 concern because when he asked about the impetus for making a change to Sunday operation a long
19 explanation came about of costs and roads and specifically the cost over the next five years of rebuilding a
20 number of roads that was estimated to be about \$20 million. Mr. Mann said the concern was when he
21 asked what the impact of opening on Sunday going to have was that there was only anecdotal information
22 and no details. Mr. Mann asked Nathan what information has been provided to City Council to help them
23 with this decision; when he spoke with Council members they had no information. Mr. Crane said at this
24 time he does not believe any studies have been completed or are underway. Mr. Mann said it is a concern
25 that the Council will be voting on the 17th on something they have not studied. He said this will
26 permanently affect the community. This is a long term change to fix a short term problem. In speaking
27 with Council members, Mr. Mann could not figure out how without increasing taxes or bonding that in the
28 best case scenario enough money would be raised by opening businesses open on Sunday and having a
29 major store move in and could it possibly cover the \$20 million. He said he thinks there is some
30 misinformation being propagated that if we do the Sunday thing that somehow magically our problems
31 will be solved. Mr. Mann said the other thing that is discouraging is that he has heard from Council
32 members that property taxes will have to be doubled or tripled to make this work without Sunday
33 openings. Mr. Mann stated that is true in one sense, but creates a wrong impression on residents because
34 it is not their property tax that will be tripled, it is the Highland portion. If it was in his case, it would only
35 increase his total taxes at most by 32%. He wishes that the Council members would be more specific in
36 their responses and in what they are telling citizens.

37
38 Mr. Mann said that at the precinct caucus a couple of weeks ago he read a resolution that was passed by a
39 75% margin. It reads: Whereas we believe as citizens of this community we have not only the right but the
40 sacred duty to make our opinions known to government leaders and to speak up on issues affecting the
41 laws and ordinances of the community and whereas the prohibition to businesses being open on Sunday is
42 consistent with the values of an overwhelming majority of the residents of Highland and is a practice that
43 enhances a sense of community and family in Highland and whereas we do not believe that the laws and
44 ordinances requiring Sunday closing adversely affect the citizens of this community since neighboring
45 communities allow businesses to be open on Sundays and whereas many of the founding fathers
46 emphasized the value of religion and morality, including President George Washington who said of all of
47 the dispositions and habits which lead to political prosperity religion and morality are indispensable
48 supports in vain would that man claim the tributed patriotism who labor to sever these great pillars of
49 human happiness. The firmest props of the duties of men and citizens and whereas it is our belief that we
50 as a community need to uphold religious values in order to secure the blessings we desire for our

1 community and whereas it has not been shown that Highland's Sunday closing laws infringe on any
2 religious beliefs or on the beliefs of those who proclaim no belief in God resolve that the members of
3 Highland Precinct 02 adamantly and unequivocally oppose any motion to change the current prohibition
4 of businesses being open on Sunday and request that a thorough evaluation of all financial issues leading
5 up to this request and options for mitigating the situations be made and that any decision on the matter be
6 made by the citizens of Highland city at the polls.
7

8 Mr. Mann concurred with Jess Adamson that this is not a decision the City Council should make and he
9 encourages that the Commission make that advice to the City Council. There is enough interest in this
10 that he does not think there needs to be a referendum. He thinks that the City Council in their wisdom
11 and in talking to friends and neighbors and make that decision on their own. Mr. Mann requested that
12 City staff do research and provide that to the City Council so that they do not make a decision in
13 ignorance. He said he cannot see how opening on Sunday will have any significant impact on the revenues
14 we get over the next 5 years.
15

16 Larry Mendenhall stated that he sat as chairman and on the Planning Commission for many years and for
17 the last four years up until December he was on the City Council. He said that he was in the Planning
18 Commission chairman's position when the Highland Marketplace, CR zone, was discussed. The developer
19 knew exactly what the rules were and agreed he would comply with the Sunday rules. Mr. Mendenhall said
20 that because of that, they upheld what the Commission felt was the community standard. He said that a
21 number of the residents of the community thanked him for that.
22

23 Mr. Mendenhall expressed that Mr. Mann made an eloquent point that there is not sufficient economic
24 data available for us to make a decision about whether or not we will benefit from Sunday openings. He
25 said that after he had been on the City Council a couple of years, that the developer approached him and
26 asked if he would change his regarding the Sunday closings. The developer had been lobbying other
27 members of the Council to do so.
28

29 Mr. Mendenhall stated that the impact on our families, the city, and community standards by allowing
30 businesses to be open on Sunday will be something in the long term that we will see evidence that it has a
31 negative impact on us and the community. He asked the Commissioners that in their deliberations they
32 gather together sufficient information to make a reasonable assessment and that the work product that
33 they give to the City Council is product that is based on fact.
34

35 Scott Smith, City Council member, expressed that they are listening to what the people of Highland say. If
36 the decision of the majority of the people is that we do not want Sunday opening, then we will support
37 that. He offered some background on this item. A private firm was hired and the Transportation
38 Committee met for weeks to discuss the findings of the firm. The recommendation was that the
39 infrastructure of Highland City is falling apart and we need to find some funds to repair and maintain our
40 roads. In a city, there are choices, property taxes can be raised, the city can bond, or encourage
41 commercial development and encourage sales tax growth. Mr. Smith explained that we have commercial
42 center, but unfortunately decisions in the past as well as this particular law keeps us from attracting
43 commercial development. Mr. Smith said that is fine if that is what the city wants.
44

45 He stated that Cedar Hills that has three businesses, Walmart, Highland Farms, and McDonalds and they
46 plan to gain revenue of \$1 million in sales tax this year. American Fork City makes \$5.2 million worth of
47 sales tax revenue. Lehi City is pretty equivalent to that. Mr. Smith indicated Highland makes about \$1.5
48 million in sales tax revenue. He said that our main anchor in the commercial development is down 30% in
49 sales tax because the people of Highland choose to shop in Lehi, Cedar Hills, and American Fork. He said
50 that is fine, that is their choice. Most of the people in Highland choose every Sunday whether or not they

1 will shop on that day. The only choice that is not available to them is whether or not they shop in
2 Highland. If the people of Highland want to legislate that, that is fine. The consequences need to be
3 looked at though. There are 54 acres of undeveloped park land that previous Councils have bought.
4 There are obligations to build a park that the people in Beacon Hills have paid hundreds of thousands of
5 dollars for to have developed and the funds have been transferred to another park. Mr. Smith said that
6 they have agreed, and Mayor Adamson was very in favor of this, of coming up with funds to maintain the
7 new Murdock Canal Trail that will come to tens of thousands of dollars. The state wants Highland City to
8 take over the Highland portion of the Alpine Highway when they finish North County Boulevard.

9
10 Mr. Smith stated that the bottom line is that we do not have the funds to do these things. He said that we
11 need to look and have a dialogue with the citizens of the community and see how we are going to finance
12 this. He said the Highland City portion of the property taxes for every citizen would have to be tripled in
13 order to raise \$20 million over 7 years. Mr. Smith said we would have to bond. The City is already \$16
14 million in bond debt that eats up 1/7 of the \$7 million budget every year. He stated that we have some
15 hard decisions. We are opening this up in an open and transparent way; there is no way we can estimate
16 how much sales tax we will get from new businesses because we do not know if they will come. Smiths
17 Marketplace was going to come to Highland, but they did not. Neither did Winco. Mr. Smith said that he
18 and John Park went down and begged Hart's Service Station to come here, but instead they are building
19 across the street from Highland where we will not benefit from one cent of sales tax. He said there are
20 different reasons why they did not locate in Highland.

21
22 Mr. Smith said that he does not shop on Sunday and his business is not open on Sunday. He believes it is
23 a personal choice matter for people. He said it makes no sense to have a code that allows liquor sales and
24 someone to play golf at the Alpine Country Club on Sundays, allows the sale of gasoline, and every home
25 business to do business on Sunday. He said that if we do not want Sunday opening, we should close it all.
26 He said this is not just an emotional religious issue, this is an issue about funding. Mr. Smith said our
27 backs are up against a wall. When he ran two years ago he promised he would be open and transparent
28 and everyone knows more about this more than the two bonds that passed in 2006 and 2007 where no
29 one came to a public hearing. Those bonds indebted the city to \$14 million. There are two sides to the
30 matter at hand and it is difficult option.

31
32 Rebekah Kaylor said that she worked for Walmart the first two years that it was opened and worked about
33 every Sunday. She said she knows who shops on Sundays in this area. As a general rule, those that were
34 sick and traveling came in on Sundays. The vast majority of traffic came from other cities. Those that
35 found out that most of the people in this area did not shop on Sundays so therefore there was less
36 congestion. She expressed that traffic from other cities may be some elements that some do not want in
37 their neighborhoods.

38
39 Ms. Kaylor addressed what Scott Smith said about the main anchor being down by 30%; she said she just
40 recently became aware (and perhaps this was not accurate) that originally the widening that occurred on
41 Lone Peak Parkway was originally slated to occur on the Alpine Highway and that would have driven
42 traffic straight to our city center. She said she is somewhat frustrated that that choice was made to put it
43 by a high school and missed out on an opportunity to drive business to our city center.

44
45 Ms. Kaylor said that in light of the finances that she would like to see a combination of Alpine, Highland,
46 and Cedar Hills to work together to conserve resources and share the expenses and costs. She said she
47 thinks that might be a viable option.

48

1 Lance Garrett asked if it is a viable option for the three cities to work together, City administrator, John
2 Park, stated that we do cooperate with those cities for fire and ems, so often times the economies of scales
3 are there. The ones that are mostly there we are cooperating on very well.
4

5 Spencer Edwards stated that he is a fairly new resident to Highland; he loves the city and wants to be here
6 forever. It has some of the more unique features that are great for families and raising kids. Mr. Edwards
7 said that this is in interesting debate. He said he may be the black sheep here, but he wanted to make his
8 opinion known. He said that the Kountry Korner is open here on Sundays; they have been grandfathered
9 in, but he said that he does not know how that business being open has affected his family personally or
10 the residents here. He stated that as far as his religious background, he shares the same values and beliefs
11 as most in this room. At the same time, part of his values and beliefs are that we should have the freedom
12 of choice and free agency and we should not necessarily be bound or do things that just one group of
13 people do.
14

15 Mr. Edwards said that as far as evidence of businesses being open on Sundays, there is no evidence, but
16 there is a really great example right down the road. Cedar Hills for all intents and purposes was basically
17 bankrupt and with Walmart coming in they have made a significant turnaround. The right business can
18 come in. It is not just the sales on that one day, Sunday, but it is getting the right business in place that
19 generates money all week long. Mr. Edwards expressed that we are about \$15 million in debt in bonds and
20 he does not think we need to go any deeper in debt. He said that as a resident here in Highland, that he
21 wants the best for his family; he wants all of the infrastructure and other facets that make for a nice
22 community. If we decide that we are going to raise our taxes and that is the only way we can do it, then
23 that is what we do. He personally feels like a better option would be to bring in business and let people
24 decide for themselves whether or not they are going to use that business.
25

26 Barbara Barry reiterated the things that most of the people have said tonight. As a community we have a
27 right to have this brought to a public vote. She said she did not think that many people even know this
28 meeting is happening tonight. She came across it in an article in the newspaper. Ms. Barry expressed that
29 the community ought to have a say in what goes on, especially in a decision as important as this.
30

31 Jennifer King stated that staff recommended that the Commission make no recommendation on the basis
32 of bias. She asked if them making a vote precludes them from giving an opinion at a City Council
33 meeting. Mr. Crane said it does not. Ms. King said she has been at City Council meetings where the
34 Planning Commission has given no recommendation and the City Council takes it as the Commission not
35 caring or having an opinion on a matter. She hopes that the Commission has an opinion on this or can
36 form one based on the comments of tonight. Ms. King said she understands it is not the Commission's
37 role to determine community values; that is the Council's role. She referenced the gentleman who said he
38 has the same values as most of the community but does not feel that he should impose those on others.
39 She said that they have been told by the leaders that if we do have the same values that it is their
40 responsibility to impose our community values on our communities. Ms. King said that the community
41 values are the general consensus of the community and not of a select few who want to shop on Sunday.
42 She said that we all have a responsibility, including the Commission and Council, to voice our values and
43 let the community values be known.
44

45 Jason Kinghorn stated that many of his friends have jobs and have to work on Sundays because they work
46 in different cities. He has friends who have a job in Highland and they do not have to work on Sundays.
47 He expressed that he and his friends do not want to work on Sundays, so to know that they can get a job
48 in Highland and not have to worry about working on Sundays is very nice. He said that this change would
49 not only affect the city financially, but also the youth.
50

1 Paul Gillespie expressed that he found this meeting to be very educational to find out some of the details
2 as to what is going on here in Highland. He said that he and his family moved here 32 years ago and
3 shortly after they moved here, they received a call to attend a meeting on the roads. He explained that at
4 this meeting was the first time he heard the term bedroom community. A bedroom community is an area
5 where people go to live, but not work, shop, or do business. Mr. Gillespie liked this and is why he moved
6 to Highland. Many older residents wanted this as well. He stated that unfortunately that concept has
7 fallen by the wayside. He said he has adapted to this new convenience, but would be happy to return to
8 the bedroom community concept. He explained that he personally has chosen to set aside a day in the
9 week and forget about commercial affairs. He said he wants to pay the taxes to the city for the services
10 they provide for the citizens; library, public safety, park, trails, maintenance, repairs, etc. He indicated he
11 does not need a tax base of businesses. He said he pays property tax, most of which goes to public
12 education. A portion goes to Highland City; his portion is only a couple of hundreds of dollars. He said if
13 the Highland portion of property tax was doubled or tripled, it would be a little bit of a burden. He said
14 that if property taxes were raised a little bit a year so that they can have a quiet peaceful community that
15 would be fine with him and his wife. His vote is to raise property taxes.

16
17 Theron Stoddard expressed his appreciation to the Planning Commission for their service. He stated that
18 he does support continuing to restrict businesses from being open on Sunday. He was grateful to hear the
19 meeting open with prayer. He thinks it is a wonderful thing we still acknowledge on a civil level our
20 fundamental beliefs that we do believe in a God. Mr. Stoddard thinks that is a critical part of this
21 discussion. He said that in driving to work each day, he gets frustrated with cracks in the roads and
22 understands there is infrastructure that needs to be developed. It is a need that we have to address. He
23 said that we have a lot of smart people in our community and our government and maybe outside. He
24 said that if the government has been unable to find a resolution perhaps we need to open that up better to
25 public input. Let us find a smart way to fund the infrastructure that we need without opening up our
26 businesses on Sunday. Mr. Stoddard stated he has several teenagers, and as the young man spoke before,
27 he does not want his teens working on Sunday either. He said this is a primary reason why they enjoy
28 being in this community and he wants to see it maintained. He suggested eliminating the planter boxes out
29 of the middle of the roads instead of businesses being open on Sunday; he would favor that. He said if we
30 have to give up some of our parks or open space then let's do that. Mr. Stoddard stated that one of the
31 problems we see with our federal government is that we are not willing to cut back on some of the
32 expenses everybody wants. He said as a community if we want to keep the businesses closed on Sunday,
33 let's find ways to cut back. He thanked everyone for listening.

34
35 Doug Cunningham indicated that he spent 20 years in the bay area of California before moving here. The
36 bay area is pretty much a nanny state where they regulate everything. He said that his experience there
37 turned him in to a staunch conservative. Part of that means that we do not legislate everything. He said
38 here in Utah County we take a lot of pride in our conservatism. Regulating this kind of morality is
39 anything but conservative. He said there is a reason why stores have located right on the borders of our
40 city. He said he feels guilty every time he shops there because he knows he is not sending tax dollars to
41 Highland. He does not shop on Sunday. He said that a business has to do what they need to, but if there
42 is not a market for any shoppers on Sunday they will close on that day; it is a personal choice. He
43 expressed that it is ridiculous that those businesses located just on the borders of our city are siphoning all
44 of our money away. Mr. Cunningham said that if we are really truly passionate about this we should not
45 shop at those businesses. He feels that is a perfectly valid solution. He supports that this ought to go to a
46 vote, but said people need to have an open mind that the world is such that people need to be able to
47 make their own choices and not be legislated.

48
49 Bryan Oaks stated that he does not see representatives from stores here tonight, which indicates to him
50 that they are not real excited to come here right now. They have the same opportunity as everyone in this

1 community to be here and voice their opinion. Mr. Oaks said that he does not think if things are changed
2 that it will change the tax bases that much. He referred to a quote by Gordon B. Hinckley where concerns
3 were expressed that members of the church may have a tendency to take on ways of the worlds. We do
4 not adopt them immediately, but we slowly take them on unfortunately. Mr. Hinckley said he wished he
5 had a way to convert the whole church to the observance of the Sabbath day. He said he knows the
6 people of the church would be more richly blessed of the lord if they would walk in faithfulness in the
7 observance of the Sabbath.

8
9 Mr. Oaks expressed his dislike of the government regulating things, but he is surprised that he is here on
10 this side of the issue. This is one thing that it is the community and the way it has been established in
11 Highland. He said he does not think we should change it.

12
13 Michelle Stone indicated she is here speaking on behalf of a couple of people in her community that asked
14 her to say a couple of things. The thing that comes to her mind is that she and many others are grateful
15 for the good work that the community planners are doing and the City Council members. They are in a
16 tough spot. We are in a hard situation in Highland; we are in a difficult financial place. The three options
17 have been discussed as we see them at this point. Ms. Stone said that going out on a limb, she has studied
18 times in history where George Washington and Abraham Lincoln each called for a national day of prayer
19 when they were in problems much greater than what Highland is facing right now. She said that she
20 thinks we are in a time right now of choosing and because the majority shares the same faith, we are at a
21 place of choosing faith or not. Do we put our choice in the lord or in the arm of flesh? She stated we
22 could call for a city day of prayer. Ms. Stone offered to post flyers and ask people to join in. She thinks by
23 putting all of our eggs in one basket that there will be more options that come. If we choose to exercise
24 faith right now, we can stand back in awe at what comes our way as opposed to going the way of wisdom
25 of men. Ms. Stone's recommendation was to look beyond and open our eyes of faith and bring the lord in
26 to this in a more profound way.

27
28 Karen Kinghorn said that she grew up in California and moved here in 1997. It was a small community
29 and she loved it. She said that Highland has a different feeling and she feels that if we open it up on
30 Sundays that the feeling will change and we will become a city like Orem, which is not where she would
31 want to live. Ms. Kinghorn stated she would rather pay more taxes. Having worked on Sundays growing
32 up, it really affected her and she does not think we should do that to our children.

33
34 Dorothy Ludaeschu asked if what is being said is that businesses will not locate here unless they can be
35 open on Sunday. Commissioner Kemp said a lot of what he has heard is that a lot of the national chain
36 stores have a policy that they need to be open 7 days a week. He said we have tried to talk to them to
37 change those policies, but some of the stores will not come unless they can be open on Sunday.

38
39 Dave Hall moved here in the 1980s. He said as a teenager he had to have a job. He worked in American
40 Fork; he made it very clear to his boss that he would not work on Sundays. His boss hired him under
41 those conditions and Mr. Hall got promoted over time and ended up managing the store. In managing the
42 store, he made the schedule and respected those who said they would not work on Sunday and left them
43 off of the schedule. Mr. Hall said that he respects everyone in this room and they have the ability to make
44 that personal choice. He stated that religion has been brought up and his ecclesiastical leaders have
45 encouraged him to get out of debt and live within his means. He said right now there are some tough
46 economic times and unfortunately he has neighbors who cannot afford their homes. He watches the
47 federal government try to enforce a fine if he does not confine to their standards. Mr. Hall said it really
48 starts to boil over how much government get involved in his life. He expressed that he wants good parks,
49 schools, roads, etc. and he feels he holds a lot of the same values as people in this room. He chooses not
50 to shop on Sundays or frequent those stores. Mr. Hall said it would be nice to have the ability to shop six

1 days a week at any stores that may come to Highland. Then on that day of rest, he chooses not to
2 frequent that business. But millions of dollars brought in to the community during those six days takes a
3 lot of the tax load off of a lot of the people.
4

5 Danielle Asay said she is a recent resident of Highland; purchased a home at Toscana. One of the things
6 that made it difficult to purchase there was wondering what else would crop up there in the land in front
7 of their home. They knew about Walmart's decision to not locate in Highland because of the Sunday
8 closure and they were thankful for that because they wanted to make sure they did not end up with a
9 Target in their front yard. Ms. Asay recognized that there are a lot of strong business factors to bringing in
10 these big businesses, but her family moved here because it does feel like a bedroom community. She said
11 that the access to stores on the outskirts of Highland is nice even though it does not support the city
12 revenue wise, but she would not have purchased a home in Highland had it not been the community that
13 it was. Ms. Asay supports businesses being closed on Sunday because of who it precludes from our
14 community.
15

16 Johnny McGill moved here from Virginia. His job allowed him to work anywhere from Bountiful to
17 Payson. He drove through numerous areas. His family chose to buy a home in Highland because of the
18 feel here. Mr. McGill expressed his support of the Sunday closures; he was not even aware of that until
19 after living here. He said that he was at the caucus meeting where Scott Smith said that they need money.
20 This really made Mr. McGill think; he said he knew he could not have it both ways and looked at what he
21 was willing to give up. He stated that if the creativity of the community was unleashed we could find some
22 amazing things. He said we could become the model of the nation. He stated he would be willing to give
23 up a few hours every Saturday to do community service. Mr. McGill said that we could take things that are
24 on the budget that the city is paying for and as citizens see them step up. He said that we have either got
25 to cut costs or raise money. The more ideas we could get and focusing on the positive we could find some
26 amazing ideas. He thinks there are a number of boy scouts and eagle projects that would be willing to step
27 up.
28

29 Melanie Bresdell said that she asked her mom about her opinion on this matter since she was unable to be
30 here. Her mom said to give the businesses the option but offer a tax break to stay closed.
31

32 Commissioner Kemp closed the public hearing at [8:10:28 PM](#).
33

34 Commissioner Garrett expressed that he did not think this item should be passed on to the City Council
35 without some sort of indication of what the Planning Commission is feeling on this matter. He said he
36 would like to know specific businesses that have indicated they wanted Sunday openings. Commissioner
37 Garrett stated that if we open it up to the citizens and ask them what they could do to motivate businesses
38 and invite businesses to Highland that we might be surprised at how much that might work. He said
39 unless he is told otherwise he does not think there are a lot of specific businesses that would come here if
40 it were not for the Sunday closure. Commissioner Garrett stated that if he remembered correctly that
41 when Wendy's first opened they were discouraged at the Sunday closure. If he remembers correctly,
42 shortly after they were open, they were the top producing Wendy's in Utah County being open only six
43 days a week.
44

45 Commissioner Kemp gave some background. He works in the real estate market. A couple of weeks ago
46 Highland Marketplace had a notice of trustee sale that he attended. This is basically when someone is in
47 default and their property is in foreclosure. Highland Marketplace went into foreclosure. The company
48 that is in second position with a \$26 million loan did foreclose on the property. The people who had the
49 first note on the property, approximately \$32 million, were there. Commissioner Kemp addressed those
50 owners and asked him what we could do to get some businesses over there and the number one thing he

1 said was change the ordinance to allow openings on Sunday. Commissioner Kemp said he did not like
2 that answer. He stated that he was disturbed that the property went in to foreclosure; there is a lot of
3 money owed on that property. Commissioner Kemp asked that owner about Walgreens and the owner
4 said they are not coming any longer; due to some financial difficulties.

5
6 Commissioner Rock asked for clarification on the businesses that are allowed to be open on Sundays and
7 how. Mr. Crane stated there are provisions in the Municipal Code that exempt gas stations, home
8 occupations, and private clubs from complying with the days of operation requirements. In regards to the
9 liquor law, there is an exception, but it is a different issue.

10
11 Commissioner Temby stated he is overwhelmed and impressed by the number of people who showed up
12 this evening to share their opinions. He recapped the issues that were discussed. One note he made to
13 himself was in regards to leveling the playing field; he said that may have been implied in some of the
14 comments though. Commissioner Temby indicated what is here tonight is to simplify the legislation or
15 the code and make the recommendation to the City Council to do that, he thinks it makes sense to do so.
16 It reduces the potential for confusion and lack of clarity in our Municipal Code. He said that ultimately
17 the City Council is going to be faced with the decision putting this question to the city and community
18 again.

19
20 Commissioner Kemp indicated his opinion is that it should go before a vote before residents in a general
21 election. As a part of that, we should do an exhaustive study to see how much taxes really need to be
22 raised.

23
24 Commissioner Temby asked what the financial impact would be on the city if a referendum were filed.
25 John Park, City Administrator, indicated they would be fairly minimal; last year \$11,000 was budgeted for
26 the municipal election and it would be less than that. The City would be required to publish some
27 information; a brochure presenting both sides.

28
29 Commissioner Heyrend thanked and encouraged the public to attend the City Council meeting on April
30 17, 2012 where this item and the Municipal Code will be considered. He asked if there is any sort of code
31 for sicknesses, hospitals, pharmacies or those kinds of needs on Sundays. Mr. Crane stated there is not.
32 Commissioner Heyrend indicated he would like to see something like that happen; a pharmacy can be very
33 beneficial on a Sunday. The Kohler's pharmacy could be open on a Sunday. He stated as an engineer,
34 there are options for roads. He said that where he works, the City of West Jordan, they receive \$5.3
35 million this last legislative session to build 5600 West; that was through a county bond.

36
37 Commissioner Heyrend said he would like to see more of an economic incentive package to encourage
38 businesses to locate here with the understanding that they are closed on Sunday. To attract a big box
39 retailer, there is usually a tax incentive to bring those types of businesses in. Commissioner Heyrend said
40 he liked the idea that he heard of offering tax incentive to a business if they are closed on Sunday, but that
41 is probably too far down the road at this point.

42
43 Commissioner Heyrend asked if the Commission decided tonight to combine the ordinances into one
44 section if that would limit the Commission's involvement in the CR zone in the future. Mr. Crane said
45 that it would. Commissioner Heyrend said then he would be in favor of keeping things the way they are
46 because he would want a Sunday closure matter to go before two bodies of government.

47
48 Commissioner Heyrend said he is concerned with the hours of operation in this code. There may be some
49 businesses that would like to stay open on the weekdays between the hours of 12 am and 6; he said
50 perhaps that is another type of bedroom community issue we have here. Commissioner Heyrend asked if

1 gas stations are allowed to be open between the hours of 12 and 6. Mr. Crane indicated that gas stations
2 are exempt from this requirement. Commissioner Heyrend said that could use a little bit of work in his
3 opinion. He further indicated that he does not want his children nor his neighbor's children to work on
4 Sundays. He is in favor of keeping businesses closed on Sunday.

5
6 Commissioner Day stated that many of the people may know of his liberty loving leanings and that he
7 takes his oath of office with the constitution seriously when he took this position. He indicated the main
8 issues he has heard are that we want to allow freedom and for opposing the Sunday law. Commissioner
9 Day stated that the constitution directs that any powers not specifically given by the federal government or
10 prohibited by the states is given to the people to have, so it is up to the people to create the laws that are
11 best suited for their states and communities. Commissioner Day referenced California and the people
12 voting to not have same sex marriages. He said that is the voice and will of the people. He indicated we
13 have to reflect on the will of the people because that is where the power comes from ultimately.

14
15 Commissioner Day moved on to the issue of taxes. He used the example that was mentioned earlier of
16 Walmart and the \$1 million of tax revenue it generates. He said he does not know what financial impacts
17 such a business would have on the city, but at \$1 million a year, that only equals out to be \$7 million in a
18 span of 7 years. Commissioner Day referenced the comment from a resident about voluntary labor as a
19 part of helping reduce the costs of the city; he said he supposes that is an option. He stated that the cost
20 of the city office building was \$19 million and suggested selling it. Commissioner Day asked if it is the
21 proper role of government to maintain roads. He said he is a libertarian leading republican
22 constitutionalist. He does not see this as a power designated to the government. Commissioner Day said
23 he does not know if this is a real option, but suggested having a fee similar to that of visiting the canyon to
24 enter into Highland. Another option he mentioned was to do a road a little bit at a time. Commissioner
25 Day heard at a City Council meeting that it takes 10-30 years for a road to turn into dirt; he said we have a
26 long time before it turns into a dirt road.

27
28 Commissioner Day continued by stating there was a precedence set when we moved in to Highland that
29 businesses were closed on Sunday. He said that even though he is a libertarian lover he has to support not
30 changing the law and leave it as it is. He stated that if it is important enough to the people it should be put
31 as a referendum that the residents can vote on.

32
33 Commissioner Roundy stated that he would be ready to make a recommendation when the time comes by
34 recommending that we combine them and get rid of multiple layers of law. He thinks that there have been
35 some excellent comments tonight as it relates to not having businesses open on Sunday. He said he would
36 not have anything open on Sunday. It is a quality of life we have come to here. Commissioner Roundy
37 said that one of the things the Commission has been charged with is to maintain and enhance the values
38 the land in our city. He recommended looking into some of the suggestions of the evening as to other
39 ways to raise money or reduce costs for the city.

40
41 Jess Adamson stated that the combination of the Development and Municipal Code will do one very
42 important thing; it will silence the voice of the Planning Commission. They will never see this issue come
43 to the Commission; in effect that silences the voice of the community. Mr. Adamson said that should be
44 taken into consideration. Its importance in the development code is that anyone coming here to do
45 business has to meet the requirements of that code.

46
47 Commissioner Kemp said that he thinks we can get this matter on a general ballot which gives everyone a
48 voice. Mr. Adamson said that will be after the fact. He said we are trying to streamline something that
49 takes process away. He does not think in this situation it is good to take this process. The referendum on
50 the ballot is a good thing and speaks the will of the people. Mr. Adamson said that after his service in the

1 community he feels he already knows the will of the people on this issue. He stated that by giving this
2 process away, it silences the voice of the Commission.
3

4 Commissioner Kemp said that even if the City Council approves businesses ability to be open on Sundays,
5 if there is a referendum, there is an injunction and that action is stayed until there is a general ballot action.
6 Mr. Adamson said it is so very important to have the voice of the people. They have good ideas and good
7 values. Commissioner Temby asked that wouldn't it be possible for the voices still to be heard by the City
8 Council. Mr. Adamson said yes, but only by one body that hears that. Those bodies of elected officials
9 are representative and they do not need to take this to the vote of the people; our City Council can take
10 this issue when the Commission sends it to them and if they have a majority vote they can change this
11 without going to the vote of the people. Commissioner Temby said that is the case regardless whether we
12 consolidate them or not. Mr. Adamson asked how it would have been if he would not have heard this
13 dialogue and comment tonight; would you have been less informed? Commissioner Temby stated of
14 course. Mr. Adamson urged the Commission to not consider their service invaluable because their
15 recommendation is very important. Commissioner Kemp said he is in favor of less regulation and not
16 multiple laws addressing the same thing.
17

18 **MOTION: Commissioner Roundy moved that the Planning Commission recommend to the City**
19 **Council to leave the development code as it is. Motion seconded by Commissioner Day. Those**
20 **voting aye: Commissioner Garrett, Commissioner Rock, Commissioner Heyrend, Commissioner**
21 **Day, Commissioner Roundy. Those voting nay: Commissioner Temby, Commissioner Kemp.**
22 **The motion carried with a majority vote; 5:2.**

23 Commissioner Kemp called for a 10 minute recess at 8:40 PM.

24 The meeting reconvened at 8:55 PM. Commissioner Day was not present at this time. John Park and
25 Matt Shipp were excused at this time.

26 2. TA-12-01 A request to amend the Highland City Development Code Section 3-4102 and 3-
27 4202 to include regulations for the keeping of chickens on lots 20,000 square feet and
28 smaller. *Legislative.*

29 Nathan Crane, Community Development Director, introduced this item and explained that we have
30 reviewed this issue quite extensively. There was a public hearing in January and a work session in
31 February. Mr. Crane explained that the comments from the public hearing and work session have been
32 taken and we have incorporated those into the changes. In the R-1-40 zoning district, chickens would be
33 allowed. Chickens only are addressed with this ordinance as recommended by the Commission. They
34 would be allowed on lots less than 20,000 square feet. No entitlements or approvals were changed for lots
35 larger than 20,000 square feet in the R-1-40 zoning district. With this ordinance, there would be a setback
36 of 40 feet from any adjacent residence. There was some language included about the coops being cleaned
37 regularly. Only roaming is permitted in the rear yard. Roosters would be prohibited on lots less than
38 20,000 square feet with this ordinance. The same regulations would be for the R-1-20 zoning district.
39 There was a change because the minimum lot size in this district is 14,000 square feet; that became the
40 starting point for chickens. Any lots less than 14,000 square feet could have 6 chickens as long as the lot is
41 10,000 square feet or larger.
42

43 Commissioner Kemp opened the public hearing at [8:58:14 PM](#).
44

1 Aaron Orulhan stated that his daughter lives in Highland and he is the chairman of the Orem City
2 Beautification Commission. He brought their ordinance on chickens for reference. He indicated they
3 have had this ordinance for over a year and have not had any problems or complaints. He offered to
4 answer any questions there are about chickens; he has raised chickens and he knows a lot about them.
5 Commissioner Kemp asked what their setback is for chicken coops from other residences. Mr. Orulhan
6 stated the setback is at least 10 feet from all property lines. Commissioner Kemp asked how many
7 chickens they allow. Mr. Orulhan said it is based on square footage of a lot. For a 5,000 square foot lot, 2
8 chickens are allowed. A 7,000 square foot lot can have 3 chickens. Then 1 additional chicken is allowed
9 for each 1,000 square feet is allowed up through 10,000 square feet. A 20,000 square foot lot can have 10
10 chickens and a 30,000 square foot lot can have 12 chickens. Mr. Orulhan stated that they have a provision
11 that the cages or coops be predator protected. He indicated that most commercial coops that are
12 purchased are set up so that predators cannot get in to them. Commissioner Temby asked if a building
13 permit is required for the coop and how that is regulated. Mr. Orulhan said that a building permit is not
14 required. They also have provisions on no slaughtering, chickens not be considered a household pet, the
15 pens be kept clean, and no roosters. Mr. Orulhan stated that in bigger operations, there is the possibility
16 of running into diseases. The bird flu does not occur with a small operation.
17

18 Deanna Holland stated that having seen the previous proposed ordinance that Mr. Crane did a really good
19 job with this one. It is a good balance for non-chicken lovers versus chicken lovers. She said the setbacks
20 may be a little bit large for chickens. She asked that the Commission does not go any more restrictive than
21 what Mr. Crane has provided with this proposed ordinance.
22

23 Mike DeCarlo said that he lives in the Town Center Meadows subdivision just south of City Hall. He and
24 some of his neighbors feel they would be negatively impacted by the proposed ordinance. They have
25 concerns of coops being located near property lines. He had an experience with a dog kennel being kept
26 near a property line by his home which was not kept clean; the smell was not pleasant. The cleanliness of
27 a chicken coop is highly concerning to him and his neighbors. He asked for consideration to prohibit
28 chickens on small lots such as theirs or if they are allowed that the City hire adequately trained staff that
29 can inspect the coops periodically for sanitary issues. Mr. DeCarlo expressed it is not the duty of the
30 police department; it is not a public safety issue. He said it is also not the duty of the neighbors to make
31 complaints on neighbors who are violating the ordinances. Mr. DeCarlo expressed that he and his
32 neighbors believe this ordinance distracts from what Highland City's image desires to be and negatively
33 affects property values. In addition this could affect the wonderful community Highland is known for.
34 Mr. DeCarlo posed a few questions for the Mayor and City Council to ponder in reference to this
35 ordinance. Who will inspect the chicken coops to insure cleanliness and number of chickens per lot and
36 does the City have money in the budget to add the additional City employees? Will there be an easement
37 or setback requirement? He stated that if the ordinance were passed, that they request that the Mayor and
38 City Council require individuals who wish to own chickens be required to have written approval from the
39 majority of surrounding neighbors, otherwise the City should deny approval of owning chicken coops. He
40 thanked the Commission for their consideration.
41

42 Cameron Platt indicated he is a neighbor of Commissioner Scott Temby. He is in support of the
43 previously published guidelines. He brought an ordinance from Salt Lake City; he worked as a police
44 officer there for 19 years. They have had an ordinance for upwards of 11 years. He indicated there are
45 some additional things he could recommend. He pointed out that in 19 years he has not responded to any
46 calls for a chicken disturbance, but on a number barking dog calls. He explained that Salt Lake City
47 requires a license and a fee associated with that. That funds a code enforcement position that periodically
48 goes out and inspects the locations and responds to complaints. The license is \$40 per year. He suggested
49 that some minimum square foot areas be included for the chickens. There are generally standards in the
50 industry for chickens in a non-commercial setting. Generally 2 square per chicken in a coop if there is an

1 exterior run is the industry standard. If there is no exterior run, 6 square feet per chicken is the
2 recommendation. Mr. Platt expressed that one of the keys to this matter is education.

3
4 Russell Skousen stated his preference for the current proposal for the 40 foot setback from any adjacent
5 residence. He feels it is probably more effective than measuring from a lot line. On the lot line, it allows
6 closer proximity to a residence. He said it is more practical to have the distance from a residence than the
7 property line.

8
9 Commissioner Kemp closed the public hearing at [9:14:12 PM](#).

10
11 Mr. Crane clarified that this amendment will not apply toward the Town Center zoning district. As far as
12 setbacks go, they would more restrictive from a property line than from a residence.

13
14 Commissioner Garrett stated that it would be his impression that if a permit was required for chickens that
15 it would give some ability to regulate violations. Mr. Crane explained that the way we do code
16 enforcement is on a complaint driven basis. He said that one question was if the City has the resources to
17 staff additional employees for enforcement by using revenue generated from a permit fee. He said that
18 even in that case we do not have the resources. There is a part time animal control officer in the public
19 safety department. Mr. Crane expressed that the code enforcement process has been quite successful.
20 Last year there were 50 cases, a wide range of concerns, and only 3 have progressed beyond staff working
21 with the property owner. Commissioner Garrett explained that his thought is that it would still work on a
22 complaint driven basis however if someone was a repeat offender we would have the ability to pull their
23 permit and no longer allow them to have chickens. Mr. Crane said that is an interesting concept. He
24 stated that if we go back to our roles, in a legislative matter we have very broad discretion and in an
25 administrative matter we have very little discretion. He said that in this specific case, we would need to
26 include provisions to allow us to issue and revoke permits.

27
28 Commissioner Garrett said he would like to include that coops should include at least 2 square feet or 4
29 square feet per chicken. Mr. Crane explained that can be included but it is not something he as staff can
30 enforce. Going out to a property to inspect, we generally do not go on to the property. Even if we did,
31 the number of chickens can change from day to day. As well as we would have to figure out a way to
32 measure the coops out on site. Commissioner Kemp said that people may not know how much area they
33 need and this may be a good guideline for them.

34
35 Commissioner Temby suggested including a provision that the coops be predator resistant.

36
37 Commissioner Heyrend added a recommendation for a minimum constructed coop size of 2 square feet
38 per chicken if there is a run. If there is not a run, there needs to be 6 square feet provided per chicken.

39
40 Commissioner Roundy commented on a puppy mill operation that was running in a neighborhood several
41 years ago. He said that on no occasion did the police or animal control respond to noise complaints. He
42 expressed that if we think the part time animal control officer is going to police a chicken, he thinks we are
43 sorely mistaken. He said that in researching other cities he was aware of as late as last week of American
44 Fork having some chickens that were frequently in a neighbor's yard. In Lindon, a similar situation where
45 the chickens fly over the fence and eat the neighbor's garden and then their black lab got turned loose and
46 took care of the chickens. In Eagle Mountain, the police would not respond to calls, so a city employee
47 went out to a gentleman's home. He loves and cares for chickens. This was the 13th call the city had
48 received of chickens flying over the fence and other complaints. Commissioner Roundy said in reference
49 to the earlier agenda item this evening, we are trying to cut services, not add to them. The police do not

1 have time to be doing chicken round ups. His recommendation would be to leave the existing regulations
2 in place and not make any changes.

3
4 Commissioner Garrett asked if there are any fines in place if anyone violates a code we have. Mr. Crane
5 said that the zoning ordinance does have enforcement provisions in it. We look for voluntary compliance,
6 but if it got to that point, yes there are fines associated with it.

7
8 **MOTION: Commissioner Rock moved that the Planning Commission recommend to the City**
9 **Council that the proposed amendment be approved with the following addition:**

10 1. **The coop shall be predator-resistant.**

11 a. **The coop shall have a minimum floor area of at least two (2) square feet per chicken.**

12 b. **If chickens are not allowed to roam within an area outside the coop, the coop shall**
13 **have a minimum floor area of six (6) square feet per chicken.**

14 **Motion seconded by Commissioner Temby. Those voting aye: Commissioner Garrett,**
15 **Commissioner Rock, Commissioner Temby, Commissioner Heyrend, Commissioner Kemp.**
16 **Those voting nay: Commissioner Roundy. The motion carried with a majority vote; 5:1.**

17
18 3. GP-11-03 A request to amend the General Plan Existing and Future Trails Map to create a new
19 Trails Master Plan. *Legislative.*

20 Nathan Crane explained that we have been through the Trails Master Plan quite a few times. There was a
21 community open house, two public hearings, and another public meeting about trail corridor widths.
22 There were a couple of issues that have arisen that the Commission needs to revisit. Mr. Crane said as an
23 effort of transparency and an opportunity to allow the public to come again, it was advertised as a public
24 hearing even though it was not required.

25
26 Mr. Crane said that the Trails Master Plan is a part of the General Plan. The General Plan is a long term
27 look at what the city wants to be in the future. It is also a statement of what our community values are.
28 One of the things discussed last time was trail corridor widths; the Commission made some
29 recommendations based on use. Mr. Crane said staff thought it was a good idea to have a discussion on
30 what trail corridors should include equestrian uses. Most of the trails are a combination of bike and
31 pedestrian uses. The Murdock Canal Trail will have an equestrian component to it. The Pfifferhorn Trail
32 is planned for an equestrian component as well.

33
34 Mr. Crane indicated that some of the thoughts staff had was that Utah County runs an equestrian park on
35 the edge of our city and how do we connect the Murdock Trail to that. The other thought was how to
36 connect the Murdock Trail to the power line corridor or the aqueduct corridor. Also, a thought was
37 whether there is a need to connect to the foothills in the future.

38
39 At the last meeting the Pugh Alignment was discussed, this is the alignment down by the Canterbury
40 subdivision. Some information was presented and staff went back and found it was inaccurate. Staff
41 brought this back to the Commission for further discussion. One of things that needs to be discussed is
42 the recommendation from the Planning Commission at the time was to reroute the trail. That was largely
43 due to a trail easement. In looking at it, it was presented that a driveway was built over the easement and
44 that was inaccurate. The Town Center trail is the only connection to the Murdock trail. Mr. Crane

1 indicated that to reroute the trail property would have to be acquired or have a developer come in to do
2 this and there is not any room to do this; we are shifting a burden. Mr. Crane indicated with the slope and
3 ravine, there is no room to put in a trail. It would require a bridge and a bridge is estimated to cost
4 \$200,000. The alignment as proposed would likely never be constructed.
5

6 Mr. Crane reminded the Commission when we are doing trail planning we are looking long term. He said
7 it is important to plan for these things so in the future we can provide connectivity.
8

9 In looking back at the proposed recommendation for the Pugh Alignment by the Commission, Mr. Crane
10 explained that rerouting the trail is placing the burden on the neighbors to the north without getting any
11 input from them. He said that with the existing easement, it was part of the plat and development and was
12 known to be there. The existing alignment is largely on property the City already has. Mr. Crane
13 explained that we are looking for the Commission's recommendation on how they want to proceed.
14

15 Commissioner Kemp opened the public hearing at [9:35:36 PM](#).
16

17 Brent Pugh said that one of the complaints of the trail system is that it is fairly hodgepodge. He liked what
18 Mr. Crane said that we need to be looking long term and have a trail system that is logical and works. Mr.
19 Pugh referenced the overhead maps and discussed the area with the Commission. Mr. Pugh stepped away
20 from the microphone to reference the maps and his dialogue was inaudible.
21

22 Commissioner Day rejoined the meeting at 9:37 PM.
23

24 Commissioner Kemp stated that he does not like the idea of giving up city owned property because we
25 may need it. Mr. Crane explained that the original idea for the bridge was to connect a sewer lift station
26 with our existing utilities to get rid of a lift station. He said it is cost prohibitive to do that. Commissioner
27 Kemp told Mr. Pugh that they may be able to do what they want with that property now, but with the
28 understanding that the City can come in and take that back and put a trail there. Commissioner Garrett
29 said that the danger with that is if fences or structures are allowed to be put on property for an extended
30 period of time that they can claim ownership on that property. Commissioner Kemp said that is correct,
31 there would have to be something recorded or some type of agreement. Mr. Crane explained that there
32 are no prescriptive easements on City property.
33

34 Rebekah Kaylor stated that she has a concern about designation. She lives in the Wildrose subdivision.
35 She requested consideration for changing the designation from a neighborhood trail to a city trail because
36 the neighborhood connects Cedar Hills to Highland, to Lone Peak High School and also to the soccer
37 fields across from the high school. She said there is traffic on the trail daily that is not from the
38 neighborhood. She said she would like to see it designated as it is being used. Commissioner Kemp asked
39 if the change in designation does anything. Ms. Kaylor said it does not do anything for her other than a
40 greater feeling for it being recognized as what it is used for.
41

42 Brad Holly lives on the Pugh corridor a little further north. He said they have maintained the extra 10-12
43 feet of grass. His main point was in considering the master plan for the city he thinks it needs to be taken
44 into consideration more the Murdock Trail and the impact that is going to have. Mr. Holly said he would
45 like to see the City commit more resources to the Murdock Trail; more landscaping, water fountains,
46 restrooms. He thinks this should be a major focus of the master plan for the trails system.
47

48 Larry Mendenhall stated a few things he felt were important. All of the designated easements within the
49 city are assets that we ought to hang on to. There are obviously some areas that will not be used but he
50 urged the Commission to not arbitrarily give up that legacy. He said that the money should not be the

1 only consideration. Mr. Mendenhall said that there are agreements that can be entered in to with adjacent
2 property owners for maintaining weeds and other things along these trail corridors. He requested that the
3 Commission consider some of these issues. When a developer comes to the Planning Commission, they
4 make an agreement with the Commission as to how the plat will be laid out and what provisions the plat
5 will contain. Part of that agreement is that there are negotiations with surrounding neighborhoods and
6 that developer and the Commission then becomes the arbiter of that agreement. There are some no build
7 zones that the Commission would recommend that would transition to the 5 acre pieces of ground to
8 30,000 foot pieces of ground. Mr. Mendenhall urged the Commission to consider those agreements. If
9 there is no possibility of constructing a trail, then sell off those pieces of property, but do not do it
10 arbitrarily.

11
12 Ed Barfuss has served for two years on the Open Space Committee. He said they have been struggling
13 with the orphaned properties and trail corridors. He indicated some progress is being made. One of the
14 early on situations was behind the Pugh's home; Mr. Barfuss said two options were given by Mr. Pugh for
15 the corridor. Mr. Barfuss said only the most expensive option has been talked about tonight. There is an
16 existing trail that comes in from the east and then if you go straight down a wash, he believes it is a water
17 easement, you can go directly to the Murdock Canal. Discussion ensued regarding the overhead maps; Mr.
18 Barfuss was away from the microphone; dialogue was not audible.

19
20 Mr. Barfuss said we now have decision to make; whether we maintain or retain a corridor that is weed
21 infested that does not improve the property or do we allow the residents to landscape it. He said it only
22 makes sense to allow the residents to beautify the property or even purchase it. Mr. Barfuss said that is
23 something the Open Space Committee is working on to find a way for residents to purchase orphaned
24 properties. He said that if the City explores that option, that is probably the best fit for everybody.

25
26 Jess Adamson stated that we have a wonderful opportunity to define as a community of trails. That has
27 already been done. We are wonderfully blessed because of the connections we have. It has been said that
28 some of those connections do not make a lot of sense right now, but they may in the future. It is easier to
29 gather property for future use than to gather property in the future. Mr. Adamson said he would be very
30 careful with what properties we have in-house and then see what we can do in a future vision to see what
31 can develop. He asked that the Commission consider the future, the connectivity, and capture the vision
32 of the community in the planning.

33
34 Marcy Alaveer lives on the Pugh corridor. She uses a lot of the trails on the trail system. She said she has
35 had deep frustrations with the Pugh corridor as a property that abuts it. Ms. Alaveer said she has had
36 endless phone calls with City staff over the years to have the area maintained. She said that she is grateful
37 to the residents who have taken their time and resources to beautify the neighborhood. She said it seems
38 to make more sense to honor their time and resources and making a more logical trail system that would
39 help them maintain what they have worked for and also being able to maintain the trails system in
40 Highland.

41
42 Commissioner Kemp closed the public hearing at [10:05:41 PM](#).

43
44 Commissioner Roundy agreed that we need to protect what we have. He recommended that we try to
45 work with the citizens that are doing some maintenance. He said he does not feel that he has enough
46 information even though this has been discussed a couple of times to make a worthy recommendation.

47
48 Commissioner Day stated his current opinion is to be the least encroaching on the current as possible. He
49 said is his of the same opinion that he does not have all of the answers. Commissioner Day said that

1 options 1 and 2 seem like better more logical options for a trail. He asked if the residents are able to put a
2 fence in that live in this area. Mr. Crane said they can on their property; not on City property.

3
4 Commissioner Heyrend said that he does not like the current alignment that is on the City plan. He is in
5 favor of either option 1 or 2.

6
7 Commissioner Temby said that looking at option 2, of those presented to the Planning Commission, he
8 thinks it defeats the purpose of the trail, which is to remove it from alongside roadways and to minimize
9 the potential impact to land owners. Mr. Crane and Commissioner Temby agreed that the City has no
10 access. Commissioner Temby said he does not like option 2. He was initially a proponent for option 1
11 last time based on some of the difficulties associated with option 3, but in light of the existing property
12 ownership we have for the existing trail and the long term need to get back in to there, he thinks we need
13 to retain option 3 as an option.

14
15 Commissioner Roundy said he likes the way that staff has presently outlined. He said he does not mind
16 that homeowners have grass there and take care of weeds, but it does not seem right to have structures
17 there.

18
19 Commissioner Garrett said that the reality is that we do not have all of the answers now and he does not
20 believe a month or six from now we will have the answers. As these properties develop and we get more
21 information and options, but until that time he believes that the City needs to maintain their current
22 easements and the property they currently own for those future options develop. He said he would
23 recommend we move forward with the current plan.

24
25 Commissioner Kemp indicated he was in agreement with that. The City needs to maintain their current
26 property and easements for future trails. He said he would like to see some agreement with those
27 residents so that they benefit from the property for the next several years until the City is able to do
28 something with it with the understanding that at some future point the City may put a trail through there.

29
30 Mr. Crane expressed that there is no hurry on this item. The Commission can take more time, there can
31 be a work session with the Council, or whatever the Commission would like to do.

32
33 **MOTION: Commissioner Day moved that the Planning Commission recommend to the City**
34 **Council that the city keep the original Planning Commission recommendation and retain City**
35 **property rights, but allow for the use of the land for adjacent property owners.**

36 **Motion seconded by Commissioner Heyrend. Those voting aye: Commissioner Temby,**
37 **Commissioner Heyrend, Commissioner Day. Those voting nay: Commissioner Garrett,**
38 **Commissioner Rock, Commissioner Kemp. Commissioner Roundy abstained due to not having**
39 **enough information. The motion failed due to lack of a majority vote.**

40 **Commissioner Temby moved that the Planning Commission recommend to the City Council that**
41 **the City's Master Trails Plan reflect option 1 (the red line reflected on the Pugh Alignment slide)**
42 **and option 3 (the combination of the purple diagonal line and the existed City owned property**
43 **identified in yellow).**

44 **Motion seconded by Commissioner Heyrend. Those voting aye: Commissioner Garrett,**
45 **Commissioner Rock, Commissioner Temby, Commissioner Heyrend, Commissioner Kemp.**
46 **Those voting nay: Commissioner Day. Commissioner Roundy abstained due to not having**
47 **enough information. Motion carried with a majority vote; 5:1**

1 Motion by Commissioner Roundy moved that the Planning Commission recommend that the
2 remainder of the trails map and equestrian uses be brought back for discussion at a later date.
3 Motion seconded by Commissioner Temby. Unanimous vote, motion carried.

4 Commissioner Temby moved that the Planning Commission recommend to the City Council that
5 the Wild Rose trail be reflected on the Trails Master plan as a City Trail. Motion seconded by
6 Commissioner Rock. Those voting aye: Commissioner Rock, Commissioner Temby,
7 Commissioner Heyrend, Commissioner Roundy, Commissioner Kemp. Commissioner Day
8 abstained due to not having enough information. Motion carried.

9 **B. OTHER BUSINESS**

10
11 **C. APPROVAL OF MEETING MINUTES FOR FEBRUARY 28, 2012 – REGULAR MEETING**

12
13 **MOTION: Commissioner Roundy moved to approve the Meeting Minutes for February 28, 2012.**
14 **Motion seconded by Commissioner Temby. Unanimous vote, motion carried.**

15
16 **D. PLANNING STAFF REPORT**

- 17
18
 - Recent City Council Actions

19
20 Mr. Crane indicated that the City Council made some changes to the Temporary Sign regulations
21 in the Development Code and staff will be preparing to send those out to the business community.

22
23 The Council did adopt a land use regulation or in other words a moratorium on new open space
24 subdivisions. They are looking to hold a joint Council and Commission meeting on open space
25 subdivisions in the future.

26
27 Commissioner Day asked if the City Council passed an item that they are not allowed to give
28 bonds. Mr. Crane explained that the ordinance requires any bond that is approved by City Council
29 to go to a general election for a vote.

- 30
31
 - Planning Commission Meeting Cancelled 4/10/12 – Spring Break

32
33 Mr. Crane asked if anyone had any objections to cancelling the Planning Commission meeting on
34 April 10, 2012 due to spring break and a number of individuals being out of town. The
35 Commission had no objections.

36
37 **E. ADJOURNMENT**

38
39 **MOTION: Commissioner Roundy moved to adjourn. Motion was seconded by Commissioner**
40 **Day. Unanimous vote, motion carried.**

41
42 **Meeting adjourned at [10:37:13 PM](#).**